

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

| | | |
|---------------------------|---|-----------------------|
| Bar None Royal Blackness, |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | C.A. No. 0:04-1819-23 |
| |) | <u>ORDER</u> |
| Jon Ozmint et al., |) | |
| Defendants. |) | |
| _____ |) | |

This matter is before the court upon Defendant Major Carlton Medley’s (“Medley”) objection to the Magistrate Judge’s denial of his Motion to Dismiss. The record contains a report and recommendation of the Magistrate (“the R&R”), which was made in accordance with 28 U.S.C. § 636(b)(1)(B). A party may object, in writing, to a report and recommendation within ten days after being served with a copy of that report. 28 U.S.C. § 636 (b)(1). Medley has filed timely objections to the R& R, challenging the Magistrate’s conclusion that Plaintiff has properly effectuated service upon him.

This court is charged with conducting a *de novo* review of any portion of the Magistrate Judge’s R&R to which a specific objection is registered and may accept, reject, or modify, in whole or in part, the recommendations contained in that R&R. 28 U.S.C. § 636 (b)(1). Having reviewed the entire record, including Medley’s objections, the court concludes that the R&R accurately summarizes the facts and law applicable to this matter, and correctly recommends the denial of Medley’s Motion to Dismiss. Given Plaintiff’s *pro se* status, and that Medley was apparently served via certified mail by delivery to the Kirkland Correctional Institution mail room, the court agrees with the Magistrate’s conclusion that Medley’s Motion to Dismiss must be denied. In the words of the Fourth Circuit, “[t]he real purpose of service of process is to give notice to the defendant that he is answerable to the claim of the plaintiff[.]” and “where actual notice of the commencement of

the action and the duty to defend has been received by the one served,” service under Rule 4(d) “should be liberally construed to effectuate service and uphold the jurisdiction of the court” *Karlsson v. Rabinowitz*, 318 F.2d 666, 668-669 (4th Cir. 1963). As Medley has notice of the claims pending against him, and because Plaintiff, in his *pro se* capacity, has fully attempted to comply with the Federal Rules of Civil Procedure in serving Defendants, the court denies Medley’s Motion to Dismiss.

AND IT IS SO ORDERED.

s/ Patrick Michael Duffy
PATRICK MICHAEL DUFFY
UNITED STATES DISTRICT JUDGE

Charleston, South Carolina
June 13, 2005